



HOUSING BOARD OF REVIEW

City of Burlington

149 Church Street Room 11
Burlington, Vermont 05401
(802) 865-7122

**HOUSING BOARD OF REVIEW
CITY OF BURLINGTON**

NOTICE OF DECISION

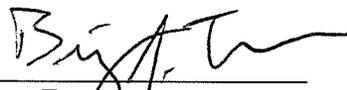
Enclosed is a copy of the "Findings of Fact, Conclusions of Law and Order" of the Burlington Housing Board of Review.

Please note that a person aggrieved by a decision of the Housing Board of Review is entitled to appeal to the Chittenden Superior Court. (See Housing Code Section 18-59 and Vermont Statutes Annotated, Title 24, Section 5006.) The court rules may require that such an appeal be commenced within thirty (30) days of the Board's Order.

Unless an appeal is taken, the Board's Order should be complied with before expiration of the thirty (30) day period.

DATED 12/30/15

CITY OF BURLINGTON
HOUSING BOARD OF REVIEW



Ben Traverse
Board Chair

cc: Chris Khamnei
Bill Ward
Patricia Wehman

5. The property was originally inspected on September 18, 2015; at that time, there were violations found and an Order was issued. The violations were to be corrected by the time of the reinspection which was scheduled for 11:30 a.m. on October 23, 2015. When Kim Ianelli conducted the reinspection she found 3 violations which were still outstanding: the kitchen faucet in Unit 1 was still loose, the heater in the basement in Unit 2 lacked an inspection tag,¹ and Unit 3 (located on the third and uppermost floor) was occupied without having a second means of egress. Petitioner acknowledged that the violations still existed at the time of the reinspection. However, by the end of the day, petitioner provided documentation to the Code Enforcement Office that the heater tags were present and the loose faucet was repaired. Petitioner also submitted an Extension Request form related to Unit 3.

6. The basis of petitioner's appeal is that 2 of the violations were corrected and an extension to comply with the third violation was requested (albeit all after the reinspection occurred) so that the reinspection fees should not be charged. Patricia Wehman agreed to waive the fees once the building was fully in compliance with the Order, per department policy. Bill Ward explained that fees are not removed until the entire building is in compliance as a way to ensure that all the work occurs.

CONCLUSIONS OF LAW

7. Section 18-42(d) of the Minimum Housing Code grants the Housing Board of Review the power to reverse or affirm, in whole or in part, any order or other action of the inspector and to make such order, requirement, decision or determination as ought to be made.

8. At the time of a reinspection, if the Order has not been complied with and if a written extension has not been granted, a reinspection fee shall be billed to the owner. Minimum Housing Code Sec. 18-27. There is no dispute that the violations still existed at the time of the reinspection. Therefore, the Board concludes the reinspection fees are proper and due under the ordinance.²

¹ Kim Ianelli was unable to access the heater for Unit 2 at the reinspection in order to confirm whether or not there was an inspection tag on it.

² If the Code Enforcement Office agrees to a waiver of any, or all, of the fees according to their department policy, the Board does not oppose such action.

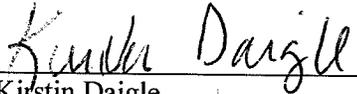
ORDER

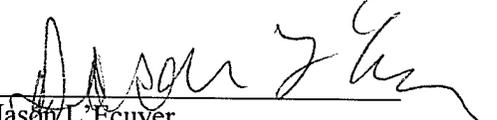
Accordingly, it is hereby ORDERED:

9. The assessment of \$180.00 in reinspection fees for the reinspection that occurred on October 23, 2015 is **AFFIRMED**.

DATED at Burlington, Vermont this 30th day of December, 2015.

CITY OF BURLINGTON
HOUSING BOARD OF REVIEW

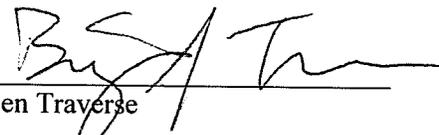

Kirstin Daigle


Jason L. Ecuier


Patrick Kearney

I concur with the order and add the following:

10. At hearing, the Code Enforcement Office requested that the Board declare Unit 3 uninhabitable on account of it not having a second means of egress. The Board is unable to grant this relief, as Section 18-42(b) of the Minimum Housing Code excepts the enforcement of "orders issued with respect to fire safety" from the Board's authority. However, the evidence presented clearly indicated that Unit 3, located on the third and uppermost floor of the building, is without a second means of egress and cannot be safely occupied. It is unacceptable to ignore fire safety to the end of maximizing rental profits. Whereas declaring the unit uninhabitable may present inconveniences for the current tenant, such issues are minor when compared to the dangers of continued habitation. Accordingly, I encourage the Code Enforcement Office to exercise the fullest extent of its authority in bringing this unit into compliance.


Ben Traverse